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FISCAL IMPACT STATEMENT

LS 7076

BILL NUMBER: HB 1230

NOTE PREPARED: Mar 19, 2009

BILL AMENDED: Mar 19, 2009

SUBJECT: Publication of Notices.

FIRST AUTHOR: Rep. Hinkle

FIRST SPONSOR: Sen. Buck

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill does the following:

Website Posting: The bill provides that a notice published in a newspaper must also be posted on the newspaper's Internet web site. It prohibits a newspaper from charging a fee for posting of the Internet notice.

Political Subdivisions: The bill eliminates the requirement that a city publish the ordinance setting the salaries of elected city officers.

It requires all political subdivisions with a budget of at least \$300,000 and the power to levy a tax to publish an annual report, if not required under any other statute, to publish an annual report.

Publication Procedures: It allows the officers of a political subdivision publishing notice to publish in only one newspaper in the political subdivision (instead of two newspapers), if only one newspaper is published in the political subdivision.

Publication Charges: The bill allows a newspaper or qualified publication to increase the basic publication charges that were in effect during the previous year by an amount equal to the least of:

- (1) the average of the annual percentage change in the Consumer Price Index for the preceding six years;
- (2) two percent; or
- (3) the maximum annual percentage increase in the spending of political subdivisions for the year under any spending cap limit enacted into law.

The bill requires public notice advertisements to be in at least 7 point type.

Sheriff's Notice of Foreclosure Sales: The bill requires a sheriff to publish notice of a mortgage foreclosure sale in at least two newspapers (instead of one newspaper) in each county where the real estate is located, unless only one newspaper is published in a county.

Counties: It eliminates the requirement that counties publish claims (except for court allowances) before payment. (Current law does not require municipalities to follow this procedure.)

Conforming Amendments: The bill makes conforming amendments.

Board of Public Works and Safety: It allows the board of public works and safety of a third class city to consist of three or five members (as determined by the mayor). It requires a second class city and a third class city to publish notice that the total number of board members has been increased or decreased.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Summary* - Overall, the bill could increase publishing costs for state and local units by increasing the basic charges for public notice advertising, and by requiring certain local units to publish budgets that may not have been published in the past. In certain cases, local units may not have to publish certain notices, may use alternative sources for publication, or may publish fewer times than is required under current statute, which may provide for cost savings.

(Revised) *Website Posting:* The bill requires that a notice published in a newspaper also be published on the newspaper's website. However, a newspaper may not charge for posting the notice on its website. The State Board of Accounts (SBA) will develop a standard form for notices posted on a newspaper's Internet site.

(Revised) *Publication Charges:* After December 31, 2008, annually the basic charge for public notice advertising may increase based on lessor of the change in the Consumer Price Index - All Urban Consumers (CPI-U) for the preceding six years, 2%, or the maximum annual percentage increase in the spending of political subdivisions for the year under any spending cap limits enacted into law. However, the basic charge for first insertion of a public notice may not exceed the lowest classified advertising rate for a comparable-sized space.

(Revised) *Background:* Under current law, the basic publication charge before January 1, 1996, was \$3.30 per square for the first insertion, plus \$1.65 per square for each additional insertion. A newspaper or qualified publication was allowed to increase the rate by 5% annually between December 31, 1995, and December 31, 2005. The SBA equalizes the cost per line across fonts in a table that uses the square rate to establish line rates based on type size. Effective January 1, 2005, the last date the SBA provided the information, the square rate was \$5.39.

The average increase in CPI-U between FY 2003 and FY 2008 was 2.92%. For example, the rate increase would default to be 2%, rather than the six-year average of the change in CPI-U. However, any county where spending cap limits are enacted, the increase would be equal to the maximum annual percentage increase in spending of the political subdivisions.

Explanation of State Revenues: *Publication Dates:* Failing to follow publication requirements results in a Class C infraction for violation of the article concerning publication of notices. The changes in the bill could both reduce or increase the number of potential offenders by changing the publication requirements.

If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), the public defense administration fee (\$3), the court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Website Posting and Publication Charges:* See *Explanation of State Expenditures* above.

Explanation of Local Revenues: *Publication Dates:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Agencies publishing public notices, State Board of Accounts.

Local Agencies Affected: Trial courts; local law enforcement agencies; fiscal bodies required to report salary and vendor payment information.

Information Sources: State Board of Accounts, *Rates for Legal Advertising, Effective January 1, 2005*.

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